

Senate File 2250 - Introduced

SENATE FILE 2250

BY DVORSKY

A BILL FOR

1 An Act relating to unauthorized departures by persons
2 involuntarily hospitalized, including notification
3 requirements, the creation of a statewide database, and call
4 location information from wireless communications service
5 providers.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 228.1, Code 2018, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 3A. "*Law enforcement professional*" means a
4 member of a police force or other agency or department of the
5 state, county, city, or tribal government regularly employed as
6 such and who is responsible for the prevention and detection of
7 crime and the enforcement of the criminal laws of this state.

8 Sec. 2. NEW SECTION. **228.7A Disclosures to law enforcement**
9 **professionals.**

10 Mental health information relating to an individual may be
11 disclosed by mental health professionals to a law enforcement
12 professional if and to the extent necessary to prevent a
13 serious and imminent threat to the health or safety of the
14 individual or others.

15 Sec. 3. Section 229.1, Code 2018, is amended by adding the
16 following new subsection:

17 NEW SUBSECTION. 08. "*Law enforcement professional*" means
18 the same as defined in section 228.1

19 Sec. 4. Section 229.14B, Code 2018, is amended to read as
20 follows:

21 **229.14B Escape from custody.**

22 1. For purposes of this section, "*member of the person's*
23 *immediate family*" means a spouse, child, stepchild, brother,
24 brother-in-law, stepbrother, sister, sister-in-law, stepsister,
25 parent, parent-in-law, stepparent, or a guardian.

26 2. A person who is placed in a hospital or other suitable
27 facility for evaluation under [section 229.13](#) or who is required
28 to remain hospitalized for treatment under [section 229.14](#)
29 shall remain at that hospital or facility unless discharged or
30 otherwise permitted to leave by the court or the chief medical
31 officer of the hospital or facility.

32 3. If a person placed at a hospital or facility or required
33 to remain at a hospital or facility leaves the facility without
34 permission or without having been discharged, the chief medical
35 officer ~~may not~~ shall within thirty minutes do all of the

1 following:

2 a. Notify the sheriff or law enforcement professional of the
3 person's absence and provide the sheriff or the law enforcement
4 professional with all of the following:

5 (1) A photograph of the person.

6 (2) The person's height and weight.

7 (3) Any telephone numbers associated with the person.

8 (4) Mental health information to the extent permitted under
9 section 228.7A.

10 b. Notify the members of the person's immediate family.

11 4. The sheriff or law enforcement professional shall take
12 the person into custody and return the person promptly to the
13 hospital or facility.

14 Sec. 5. NEW SECTION. 229.14C Database.

15 1. The department of public safety shall develop and
16 maintain a searchable database of information collected
17 from the courts related to voluntarily and involuntarily
18 hospitalized patients. Access to the database shall be limited
19 to law enforcement agencies and professionals, the court, and
20 mental health professionals.

21 2. The department of public safety shall adopt rules under
22 chapter 17A, as necessary, to provide guidelines for persons
23 required to assist in obtaining database information, and
24 to provide a procedure for the dissemination of information
25 contained in the database. The department, in developing the
26 procedure, shall consult with associations which represent
27 the interests of law enforcement officers, mental health
28 professionals, and court officials. Rules adopted shall
29 also include a procedure for removal of information from the
30 database upon the release of a person from a hospital or
31 facility.

32 Sec. 6. NEW SECTION. 229.14D Cellular telephone location.

33 1. If a person placed at a hospital or facility or required
34 to remain at a hospital or facility leaves the facility without
35 permission or without having been discharged, the sheriff

1 or law enforcement officer may request the location of the
2 cellular telephone of the person pursuant to section 34A.16.

3 Sec. 7. CODE EDITOR DIRECTIVE.

4 1. The Code editor may make the following transfers:

5 a. Section 229.14A to section 229.14B.

6 b. Section 229.14B to section 229.14C.

7 c. Section 229.14C to section 229.14A.

8 2. The Code editor shall correct internal references in the
9 Code and in any enacted legislation as necessary due to the
10 enactment of this section.

11 EXPLANATION

12 The inclusion of this explanation does not constitute agreement with
13 the explanation's substance by the members of the general assembly.

14 This bill relates to unauthorized departures by persons
15 involuntarily hospitalized, including notification
16 requirements, the creation of a statewide database, and call
17 location information from wireless communications services
18 providers.

19 Under Code chapter 228, a mental health professional, data
20 collector, or employee or agent thereof, is prohibited from
21 disclosing or allowing the disclosure of an individual's
22 mental health information without the individual's consent or
23 written authorization. "Mental health information" is defined
24 in Code section 228.1 to mean oral, written, or recorded
25 information which indicates the identity of an individual
26 receiving professional services and which relates to the
27 diagnosis, course, or treatment of the individual's mental
28 or emotional condition. However, disclosure of such mental
29 health information without the individual's consent or written
30 authorization is allowed under certain circumstances, including
31 for certain administrative disclosures to other mental health
32 providers for administrative and professional services to
33 the individual and to meet certain compulsory disclosure
34 requirements pursuant to state or federal law. In addition,
35 the disclosure of certain limited mental health information is

1 allowed to authorized family members without the individual's
2 consent or written authorization in some circumstances.

3 The bill allows for the disclosure of mental health
4 information by a mental health professional relating to
5 an individual without the individual's consent or written
6 permission to a law enforcement professional to the extent
7 necessary to prevent a serious and imminent threat to the
8 health and safety of the individual or others.

9 Under current law, if a person placed at a hospital or
10 facility or required to remain at a hospital or facility
11 leaves the facility without permission or without having been
12 discharged, the chief medical officer may notify the sheriff of
13 the person's absence and the sheriff is required to take the
14 person into custody and return the person to the hospital or
15 facility.

16 The bill amends current law to require the chief medical
17 officer to notify the sheriff and the person's parent or
18 guardian and immediate family members. The bill requires the
19 chief medical officer to provide the sheriff a photograph of
20 the person and the person's height, weight, and mental health
21 information to the extent permitted by law. The sheriff is
22 required to take the person into custody and return the person
23 to the hospital or facility.

24 The bill requires the department of public safety (DPS)
25 to develop and maintain a searchable database of information
26 collected from the courts related to voluntarily and
27 involuntarily hospitalized patients. Access to the database
28 is limited to law enforcement agencies and professionals, the
29 court, and mental health professionals. The bill directs DPS
30 to adopt rules pursuant to Code chapter 17A, as necessary, to
31 provide guidelines for persons required to assist in obtaining
32 database information, and to provide a procedure for the
33 dissemination of information contained in the database. DPS
34 shall consult with associations which represent the interests
35 of law enforcement officers, mental health professionals, and

1 court officials. The bill provides the rules adopted shall
2 also include a procedure for removal of information from the
3 database upon the release of a person from a hospital or
4 facility.

5 The bill provides if a person placed at a hospital or
6 facility or required to remain at a hospital or facility
7 leaves the facility without permission or without having been
8 discharged, the sheriff or law enforcement professional may
9 request the location of the cellular telephone of the person
10 pursuant to Code section 34A.16. Under Code section 34A.16, a
11 wireless communications provider is required to provide call
12 location information concerning a device to a law enforcement
13 agency or officer or a public safety answering point upon a
14 request for that information if the law enforcement agency or
15 public safety answering point determines the information is
16 needed in an emergency situation that involves the risk of
17 death or serious physical harm.